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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MICHAEL RAYMOND SUA,

12 Petitioner,

13 vs.

14 JAMES TILTON,

15 Respondent.


CASE NO. 07cv1338 JM(BLM)

ORDER DENYING MOTION FOR
STAY WITHOUT PREJUDICE

16 On or about February 26, 2010, the court received from Petitioner a motion to stay these
17 proceedings. The court denies the motion without prejudice because the court is divested of subject
18 matter jurisdiction to entertain Petitioner's merits-based motion. This action is presently on appeal
19 before the Ninth Circuit. Until the district court receives the mandate from the Ninth Circuit
20 transferring jurisdiction back the district court, the court lacks jurisdiction to entertain the motion to
21 stay. See Nascimento v. Dummer, 508 F.3d 905, 908 (9th Cir. 2007). Accordingly, the motion to stay
22 the proceedings is denied without prejudice.

23 **IT IS SO ORDERED.**

24 DATED: March 8, 2010

25 
26 Hon. Jeffrey T. Miller
United States District Judge

27 cc: All parties
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